

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 3: Rio Cebolla

[PROPOSED] ORDER MAKING FINAL DETERMINATION OF PRIORITY DATES
IN THE RIO CEBOLLA SUBSECTION
OF SECTION 3 OF THE RIO CHAMA STREAM SYSTEM

THIS MATTER comes before the Court on the motion of Plaintiff State of New Mexico, *ex rel.* State Engineer, for an order making final determination of priority dates in the Rio Cebolla Subsection of Section 3 of the Rio Chama Stream System (“Cebolla Subsection”). *See* Doc. _____, filed 09/05/18.

The Court, having reviewed the Motion, pertinent portions of the record and the law, and being otherwise fully advised in the premises, finds the Motion to be well-taken and that it should be GRANTED. Further, the Court FINDS that:

Each of the individual subfile defendants in the Cebolla Subsection has been served with this Court’s Notice and Order to Show Cause (“Mailing Notice,” Doc. 11281, filed 09/11/17) in connection with the proposed determination of priority dates in the Cebolla Subsection. *See*

Certificate of Service, Doc. 11285, filed 09/21/17.

The Court's *Public Notice and Order to Show Cause* ("Public Notice," Doc. 11282, filed 09/11/17) has been published in the *Rio Grande Sun* once each week for 4 consecutive weeks, the first publication being on the 28th day of September 2017, and the last publication being on the 19th day of October, 2017. *See Proof of Publication of Public Notice and Order to Show Cause* (Doc. 11304, filed 11/30/17).

Accordingly, notice of the proposed determination of priority dates in the Cebolla Subsection has been provided to all claimants, known and unknown, who may claim or have a right to use the surface waters of the Cebolla Subsection.

The Court's Mailing Notice and Public Notice required all claimants who disagree with the State's proposed determinations of the priority date of their water rights to file an objection by December 11, 2017. Three objections to the State's proposed priority dates for the Cebolla Subsection were timely filed:

1. On December 4, 2017, an objection was filed by Defendant Petra J. Maes on behalf of herself and others (Doc. 11308). That objection was withdrawn on July 5, 2018. *See* Docs. 11361 and 11361-1.
2. On December 11, 2017, an objection was filed by attorney Ted J. Trujillo on behalf of Defendants Charlie Chacon and Geraldo M. Chacon ("the Chacons"). *See* Doc. 11310. This Court overruled that portion of the Chacons' objection relating to the priority date for their own water rights under the private Sanchez Ditch. *See* Doc. 11336, filed 03/27/18. The Chacons have elected not to object to the State's proposed priority dates for anyone else's water rights under the Sanchez Ditch.

3. On December 11, 2017, an objection was filed by Defendant Ronnie F. Garcia (Doc. 11311). That objection was withdrawn on July 30, 2018. *See* Docs. 11364 and 11364-1.

No other objections to the State's proposed determination of priority dates in the Cebolla Subsection were filed with the Court.¹

There is no just reason for delay of the entry of a final judgment as to priority dates for surface water irrigation use in the Cebolla Subsection, and the Court enters this Order as a final judgment as to the priority dates of the water rights described herein. This final judgment precludes all persons, known and unknown, who claim a right to use the surface waters of the Cebolla Subsection from making any and all objections to the priority dates described herein in future *inter se* proceedings.

IT IS THEREFORE ORDERED that the priority dates of the community and private ditches in the Rio Cebolla Subsection of Section 3 of the Rio Chama Stream System, and all individual irrigation water rights served by those ditches, are as set forth below:

A. Pre-1907 Surface Water Irrigation Rights²

<u>DITCH</u>	<u>PRIORITY DATE</u>
Acequia del Pinavetal*	1883
Acequia Madre de Cebolla	1875
Alto Ditch*	1889
Atencio North Ditch	1882

¹ Objections to the State's proposed determination of irrigation water requirements in the Cebolla Subsection will be addressed separately and at a later date in these proceedings.

² Ditches that convey water with both pre-1907 and post-1907 water rights are marked with an asterisk (*). Acreage irrigated with post-1907 water rights under these ditches is detailed in Paragraph B below.

Atencio South Ditch	1882
Canuto Valdez Ditch	1897
Cordova-Maes North Ditch	1875
Emiliana Maes South Ditch	1906
Felipe Archuleta Ditch	1903
H.B. and G.C.-Martinez Ditch	1878
Julian Serrano Ditch	1906
Maes South Ditch	1876
Martinez-Cordova North Ditch	1879
Martinez-Cordova South Ditch	1879
Montano-Martinez Ditch	1882
Nicomedes Trujillo Ditch	1904
Old Valdez Ditch	1878
Quintana Ditch	1875
Sanchez Ditch	1898
CHCB-001-0002	
Ernest Sanchez	
Margie K. Sanchez	
Sanchez Ditch	1905
CHCB-001-0007	
Charlie Chacon	
Geralda M. Chacon	
Skelly-Maes Ditch	1906
Trujillo-Lopez Ditch	1898

Unnamed Ditch No. 1	1875
Unnamed Ditch No. 2	1875
Venceslao Martinez Ditch	1886

B. Post-1907 Surface Water Irrigation Rights³

<u>SUBFILE</u>	<u>OSE PERMIT / LICENSE</u>	<u>ACRES</u>	<u>PRIORITY DATE</u>
CHCB-001-0001F	No. 2686	10.60	November 21, 1949
Azalea Maes	Acequia del Pinavetal		
Celeste Maes			
Immanuel Maes			
Joshua Maes			
Lorie Maes			
Petra Maes			
CHCB-001-0004	No. 2738	1.70	August 3, 1951
Tobias H. Sanchez	Acequia del Pinavetal		
CHCB-003-0001	No. 2631	23.30	March 29, 1948
Galina V. Vigil	Alto Ditch		
Frederick R. Vigil			
CHCB-003-0002	No. 2631	25.10	March 29, 1948
Galina V. Vigil	Alto Ditch		
Frederick R. Vigil			
CHCB-003-0022	No. 2631	20.00	March 29, 1948
Adela Martinez	Rincon Blanca Ditch		
David R. Martinez			
CHCB-006-0001	No. 2658	47.30	November 18, 1948
Arthur F. Hibner	Sixto Alire Ditch "A"		
Revocable Trust			

³ Please note: if a *parciante* has both pre-1907 and post-1907 water rights on a single ditch, only the post-1907 water rights acreage is detailed in Paragraph B. Any additional acreage irrigated under one of the ditches listed in Paragraph A has the priority date listed in Paragraph A.

	No. 2658 Sixto Alire Ditch "B"	21.80	November 18, 1948
	No. 2658 Sixto Alire Ditch "C"	63.50	November 18, 1948
	No. 2658 Emiliana Maes North Ditch	28.10	November 18, 1948
CHCB-007-0001 Ephraim Valencia Jedburgh Ltd. Lorraine Valencia	No. 2631 Rincon Blanca Ditch	10.00	March 29, 1948
CHCB-007-0002A Donna M. Martinez Leroy A. Martinez	No. 2631 Rincon Blanca Ditch	15.00	March 29, 1948
CHCB-007-0002B Henry E. Lieber Martinez Ranch Partnership	No. 2631 Rincon Blanca Ditch	30.00	March 29, 1948
CHCB-007-0003 Gustavo Martinez Rosina Martinez	No. 2631 Rincon Blanca Ditch	40.90	March 29, 1948
CHCB-007-0004 Mary Jo Martinez	No. 2631 Rincon Blanca Ditch	17.30	March 29, 1948
CHCB-007-0005 Heirs of Gilberto Martinez Jerry Garcia Lydia Garcia	No. 2631 Rincon Blanca Ditch	4.80	March 29, 1948
CHCB-007-0007 Alice Martinez Max D. Martinez	No. 2631 Rincon Blanca Ditch	2.00	March 29, 1948

CHCB-008-0001	No. 2631-2735	320.00	March 29, 1948
Clyde C. Baker	Rincon Blanca Ditch		
Theresa Baker			

D. Transferred Water Rights:

<u>MOVE-TO LOCATION</u>	<u>DITCH</u>	<u>OSE PERMIT</u>	<u>PRIORITY DATE</u>
CHCB-002-0001B	Chacon Ditch	No. 0636-D	1883
Charlie Chacon			
Geralda M. Chacon			

IT IS FURTHER ORDERED that the priority dates in individual subfile orders in the Cebolla Subsection are adjudicated as follows:

1. All individual subfile orders entered by the Court for surface water irrigation use in the Cebolla Subsection are amended to incorporate in the description of water rights the priority dates described above.
2. Any diversion and use of the waters of the Rio Chama Stream System in the Cebolla Subsection by any defendant except in strict accordance with the water rights described herein is prohibited.

MARTHA VÁZQUEZ
UNITED STATES DISTRICT JUDGE